

REMARKS

Claims 1-39 are pending in the application. Claims 17, 18, and 36 have been cancelled. Additionally, claims 1, 32, and 37 have been amended.

Applicants noted Examiner's remarks with respect to Fig. 1 and, as such, have included a Replacement Sheet for Fig. 1 in the Appendix to this Amendment.

The Applicants further wish to thank the Examiner for his thorough review of the above-identified application, and particularly for the allowance of the subject matter disclosed in claims 15-16 and 36-37.

Claim Rejections – 35 U.S.C. § 102(b)

The Examiner rejected claims 1-14, 17-23, 26-29, and 32-35 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,999,682 to Vincent (hereinafter "Vincent"). Applicants contend that Vincent does not include each and every limitation of Applicants' claim 1. As is stated in MPEP 2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" (citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). Furthermore, *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989), stated that "[t]he identical invention must be shown in as complete detail as is contained in the...claim."

Vincent teaches carrier carriages 14, 14' that are "adapted to receive one of the two fibers to be jointed." Col. 5, lines 11-12. However, specifically addressing Applicants' amended claim 1, Vincent does not teach an insertion mechanism that rotates the end of the fiber between a cleavage orientation and an insertion orientation with respect to the connector holder, in order to insert the fiber into the connector, the rotation of the fiber by the insertion mechanism being through substantially 90 degrees. Instead, Vincent teaches that subassemblies 15 and 16 "are mounted on a support cradle 17 pivoting in the frame 12 and moved by one of the cams from a first position, here an upper position,...to a second position, here a lower position." Col. 4, lines 19-30. Vincent's subassembly 15 prepares the ends of the fiber to be jointed and subassembly

16 holds a splicing module. Subassemblies 15 and 16 rotate in cradle support 17 by way of cam 56, as shown in Fig. 12. Vincent discloses only that subassemblies 15 and 16 rotate and does not describe optical fiber F rotating through substantially 90°.

Vincent does explain that “[e]ach carrier carriage 14, 14’ is adapted to receive one of the two fibers to be jointed and includes a mobile fiber-carrier device 123, 123’ that can pivot in the carriage about an axis which here is parallel to the guide rods.” Col. 5, lines 11-14. However, the rotation of fiber-carrier device 123, 123’ may only “be adjusted between 0° and about 20°, preferably between 0° and about 12°.” Col. 5, lines 36-37. Vincent also explain that the fiber-carrier device 123, 123’ rotates to enable oblique cutting of the fiber. As such, Vincent only teaches a fiber that may rotate within 20° for the purpose of changing the angle of the cut on the fiber. Vincent fails to disclose rotation of the fiber by an insertion mechanism that is through substantially 90° in order to insert the fiber into a connector. Moreover, Vincent’s fiber is not held within subassemblies 15 and 16 as each rotates on support cradle 17. To further emphasize that only subassemblies 15 and 16 rotate but the fiber does not rotate, Vincent states that “[p]ivoting the cradle into the lower position, simultaneously with the downward movement of the subassembly 15 previously at this level, positions the subassembly 16 at the level of the fibers as defined by the fiber-carrier devices 123 and 123’.” Col. 8, lines 28-32. As such, Vincent makes it apparent that the fiber is not located within either subassembly 15 or 16 during the rotation; instead, the fiber is held at the same location and subassemblies 15 and 16 rotate to the position of the fiber.

As such, Vincent fails to disclose each and every limitation of Applicants’ amended claim 1. Claims 2-14, 17-23, and 26-29 depend from Applicants’ independent claim 1. Therefore, Vincent also fails to disclose each and every limitation of Applicants’ claims 2-14, 17-23, and 26-29. Applicants respectfully submit that claims 1-14, 17-23, and 26-29 are in condition for allowance and request that Examiner withdraw his rejection.

In regards to Applicants' amended claim 32, Applicant has amended claim 32 to incorporated objected to claim 36, and has concurrently cancelled claim 36. As the Examiner indicated that claim 36 was allowable, Applicant believes that claims 32-35 are in condition for allowance.

Claim Rejections – 35 U.S.C. § 103(a)

The Examiner rejected claims 24-25, 30-31, and 38-39 as being obvious over Vincent in view of U.S. Patent No. 6,190,054 to Tamaki (hereinafter "Tamaki"). Applicants note that the MPEP 2143.01 states, "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious" (citing *In re Ratti*, 123 USPQ 349 (CCPA 1959)). MPEP 2413.01 also states that the *In re Ratti* court reversed an obviousness rejection and held that "the 'suggested combination of references would require a substantial reconstruction and redesign of the elements shown in the [primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate.'" (123 USPQ at 352) As stated above, Vincent fails to disclose each and every limitation of amended, independent claim 1. Additionally, Vincent fails to disclose each and every limitation of Applicants' independent claim 38. Tamaki cannot be combined with Vincent to cure these deficiencies. Furthermore, it would not be obvious to one of ordinary skill in the art to combine Vincent with Tamaki, since to do so would require changing the principle of operation of these references.

Vincent cannot be combined with Tamaki to produce Applicants' device. It is not obvious to combine Vincent and Tamaki because a principle of Tamaki's operation is to switch "only one of the optical fibers 3 when two optical fibers 3, 3, are already connected in the optical fiber connector 1." Tamaki, Col. 12, lines 16-18. Tamaki is able to only switch one optical fiber 3 when wedge 20 slides "to correspond to the right [or left] three openings from among the four openings of the optical fiber connector 1." Tamaki, Col. 12, lines 44-46. "Thus, the pinching force is released only in the...optical fiber which will be switched, while on the other optical fiber, the pinching force is not released." Tamaki, Col. 12, lines 47-50.

Conversely, Vincent discloses that the cleaved ends of optical fibers must be positioned “in the intended position before immobilizing them by moving the immobilizing member of the module.” Vincent, Col. 3, lines 49-52. Vincent discloses an immobilizing member 2 that extends between both ends of the fibers to be jointed, as may be seen in Figs. 1 and 6. Immobilizing member 2 is a solid piece that may not be partially removed from the receiving housing 1. Therefore, one of the two fibers may not be removed from the receiving housing 1 without also decreasing the force on the other fiber. In this way, Vincent may not be combined with Tamaki because to do so would change a principle of operation of these references.

As such, it would not be obvious to combine Vincent and Tamaki to produce the limitations of Applicants’ amended, independent claim 1. Therefore, the combination of Vincent and Tamaki does not produce the limitations of Applicants’ claims 24-25 and 30-31, depending from claim 1. Furthermore, it would not be obvious to combine Vincent and Tamaki to produce the limitations of Applicants’ independent claim 38 or dependent claim 39. Applicants believe that claims 24-25, 30-31, and 38-39 are in condition for allowance and respectfully request passage thereof.

Final Remarks

Applicants believe that all of the pending claims 1-16, 19-35, and 37-39 are in condition for allowance and respectfully request passage thereof.

In the event Applicants have overlooked the need for an additional extension of time or payment of fee, Applicants hereby petition for and authorize that any charges be made to Deposit Account No. 02-0390, Baker & Daniels LLP.

If any questions concerning this application should arise, the Examiner is encouraged to telephone the undersigned at 317-237-1115.

Application Serial No. 10/578,239
Amendment dated December 6, 2010
Reply to Office Action of September 2, 2010

Respectfully submitted,

/ERIC J. GROEN/

Eric J. Groen
Registration No. 32,230
Attorney for Applicants

BAKER & DANIELS LLP
300 North Meridian Street
Suite 2700
Indianapolis, Indiana 46204
Telephone: 317-237-1115
Facsimile: 317-237-1000